

# Report of the Community Infrastructure Levy (CIL) and Section 106 (S106) Panel

Report of the Lead Member of the CIL and S106 panel, Councillor Karen Hamilton

## Recommended:

**That Overview and Scrutiny Committee endorses the findings of the panel and supports the following recommendations;**

- 1. That a briefing note be circulated to all members that explains how CIL and S106 funds are received and how they are allocated to projects.**
- 2. That training sessions are arranged for all members on CIL and S106 following the 2023 elections.**

## SUMMARY:

- This report brings together the findings of the Community Infrastructure Levy (CIL) and Section 106 (S106) Panel to review how S106 and CIL funds have been utilised between 2016 and 2022.
- The panel felt that;
  - robust systems are currently in place to ensure that funding is secured, allocated and spent.
  - additional information in the form of a briefing note would help to ensure that all members have a full understanding of the processes involved in securing CIL and S106 and
  - that training should be provided to all members following next year's elections. This would ensure that members better understand how to access funding within their area and help deliver infrastructure for their communities.

## 1 Introduction

- 1.1 This report brings together the findings of the panel to review CIL and S106 funds between 2016 and 2022.

## 2 Background

- 2.1 The scoping document for this review was endorsed by the Overview and Scrutiny Committee on 7<sup>th</sup> April 2022.
- 2.2 Two panel meetings were held with officers on 5 June 2022 and 7 July 2022.

- 2.3 On the 5 June officers from the Planning and Building Service presented a report addressing the points raised in the scoping document. This report is attached as Annex 1.
- 2.4 Members agreed to a 2<sup>nd</sup> panel where an overview of the CIL and S106 processes would be provided alongside more in depth discussions on the Picket Piece and Picket Twenty allocations.
- 2.5 On 7 July officers presented an overview of both processes alongside a geographical representation of the Council's CIL receipts. The presentation is attached at Annex 2 and the parish CIL receipts at Annex 3.
- 2.6 The Scoping Document is attached at Annex 4 for information.

### **3 Community Infrastructure Levy (CIL) Findings**

- 3.1 The panel queried whether funding could be used on projects outside of the Borough Ward where it was taken. It was confirmed that the Borough Council CIL funds are not bound to the ward area. However the exception to this is where the local Parish/Town Council receive 15% of CIL funds generated within their area (or 25% where the Parish has an adopted Neighbourhood Plan), and this must be spent in their administrative boundary.
- 3.2 Questions were asked surrounding these Parish/Town Council funds as to whether they can be scrutinised. Officers provided information on how much funding each Parish Council had received. These amounts should be published in Parish Council annual accounts and made available on their websites. Officers did offer to conduct spot checks to ensure compliance with these requirements but the governance responsibility is on the spending authority. If any members have concerns around expenditure they can contact the CIL Officer.
- 3.3 The panel queried the mechanism used for releasing CIL funds. A Spending Protocol was adopted by Council in 2017. This created a competitive bidding process that runs annually. Bids can be submitted between 1 April and 30 June and are then assessed by officers using the member approved CIL scoring system with recommendations then taken to Cabinet.
- 3.4 In 2021 Cabinet approved the creation of a Regeneration Reserve which will be used to support the delivery of the Romsey and Andover Masterplans. This is 60% of CIL receipts (rising to 80% in April 2023). It was confirmed by officers that the Regeneration Reserve stood at £1,163,000 on 5 June.
- 3.5 It was confirmed that affordable and self-build housing is exempt from CIL providing the correct relief procedures are followed by applicants.
- 3.6 Officers reported that the trigger point for CIL is commencement which encourages timely delivery of CIL funds to help mitigate the impact a development may have once occupied.

- 3.7 On the 7 July panel members were provided with a coloured map and list of CIL receipts broken down by Parish/Town Council area. Ward members are encouraged to approach their local parish councils to utilise this funding alongside S106, the Community Asset Fund (CAF) and other funding sources to help deliver infrastructure in their area.
- 3.8 It was confirmed that members can champion local projects and apply directly to the Community Projects Reserve which is open for bids between 1 April and 30 June each year. This reserve will fund up to 50% of a projects cost.
- 3.9 The CIL Officer confirmed that local ward members will be informed of bids submitted in their area in future rounds.

#### **4 Section 106 (S106) Findings**

- 4.1 Officers confirmed that since the introduction of the Council's CIL Charging Schedule on 1 August 2016 there is no longer any secure tariff based S106 contributions, such as off-site Public Open Space contributions that used this method in the past.
- 4.2 The panel made the same query as in para 3.1 regarding S106. For the most part the terms of a S106 explicitly set out what infrastructure is needed and where that will take place. There is a strong correlation between the infrastructure being delivered and the location of the development site. In this respect S106 funds are rarely used outside of the parish where the contribution was taken. Ward members are consulted on these funding releases by the S106 Officer.
- 4.3 Local ward members are informed of all S106 funding requests and are asked for their authorisation in line with the requirements of our Infrastructure and Developer Contributions SPD. Any requests for £25,000 or more will require Cabinet approval
- 4.4 The panel was informed that S106 contributions are ring-fenced for a specific purpose listed in the original legal agreement. These can be restricted by type e.g. children's play space and by geography e.g. children's play space at the recreation ground.
- 4.5 It was confirmed that a S106 could be amended but this would be difficult as all of the original parties to the Agreement would need to agree to a variation. This becomes increasingly more difficult with larger sites where there are numerous landowners and developers.
- 4.6 The S106 Officer confirmed that members would receive updates on funds held within their ward in April and October each year. The previous timeline was June and December but this has been changed to fit in with both the finance service and CIL update timelines.
- 4.7 At the 7 July panel both the Picket Piece and Picket Twenty allocations were discussed in detail.

- 4.8 The Head of Planning and Building informed the panel that much of the success in delivering new infrastructure on strategic allocations depends on whether the providers are willing to take on the commercial opportunities provided by the planning permission. The Local Planning Authority (LPA) can only provide the mechanism to bring forward new facilities, rather than compel, or insist that a provider must deliver. This usually takes the form of obliging a developer to make land available for a certain period of time, for certain uses. Early engagement with key, strategic providers e.g. health care providers at the Local Plan stage provides the best chance of the desired infrastructure being provided.
- 4.9 Discussions centred around the reasons for the absence of facilities that communities expected to be delivered on these allocations. The Head of Planning and Building explained that the onus is on the providers to produce the evidence of need during the planning application stage when consulted. In the absence of such evidence it is difficult to secure contributions. A suitable amount of land can be allocated to such a facility but a service provider would still need to take on this land.
- 4.10 Members are encouraged at an early stage to ensure that, on large strategic sites, expectations of 'what' infrastructure is needed and 'when' that should be delivered are clear. This helps inform the negotiations undertaken by officers and reflected in the terms of the S106 Agreement. Officers are currently trialling new methods of communication and infrastructure discussions with the allocation of land at Whitenap, Romsey. This should help transparency and clarity such that members fully understand what the proposal comprises before granting planning permission.
- 4.11 It was explained that the wording of the Local Plan is key when trying to secure the right infrastructure. If wording is too vague then it can be open to challenge as to what the Council means, but if it is too prescriptive then there is little room for flexibility. It must be considered that the larger sites, where significant infrastructure is likely to be delivered, can take many years for the need for the facility to be required. In that time community and technical specifications may change.

## **5 The Panel's Recommendations**

- 5.1 It was felt that a briefing note with a summary of the information provided to the panel would be beneficial to all members. Officers have agreed to circulate this document on the 3 November.
- 5.2 Next year's elections will provide a good opportunity for training and will ensure all members are fully informed on the funding available within their ward and the mechanisms involved in securing that funding.

## **6 Options**

- 6.1 The Overview and Scrutiny Committee has the option to endorse the panel's findings and recommendation of S106 and CIL training for all members following the 2023 elections.

## **7 Resource Implications**

7.1 None

## **8 Legal Implications**

8.1 None

## **9 Equality Issues**

9.1 None

## **10 Other Issues**

10.1 Wards/Communities Affected - All

## **11 Conclusion**

11.1 The panel thanked the officers involved for their time and insight into how S106 and CIL funds are secured, allocated and spent.

11.2 The panel felt that the information provided should be circulated to all Members via a briefing note. This will be circulated on the 3 November.

11.3 The best way for Members to have a say in the future infrastructure delivered in their area is through the Local Plan and Members are encouraged to engage in the plan making process.

11.4 Training for all Members would help ensure that they have a full understanding of the funding available and how they can assist in the delivery of the infrastructure that their communities require.

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
None			
<u>Confidentiality</u>			
It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	4		
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